IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3546 OF 2005
WITH
CRIMINAL APPLICATION NO.3547 OF 2005

Girish Patel ...Applicant

Versus

The State of Maharashtra & Anr ...Respondents

ALONGWITH
CRIMINAL APPLICATION NO.3548 OF 2005
WITH
CRIMINAL APPLICATION NO.3549 OF 2005

M/s. Umesh Commercial Enterprises ...Applicants

Versus

The State of Maharashtra & Anr ...Respondents

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Mr. V.N. Golwala, Advocate for Applicants

Ms. S.V. Gajare, A.P.P. for State in Application No. 3546 of 2005.

Mr. S.R. Shinde, A.P.P. for State in Application No.3547 of 2005.

Mr. Y.S. Shinde, A.P.P. for State in Application No.3548 of 2005.

Mr. V.B. Konde Deshmukh, A.P.P. for State in Application No.3549 of 2005.

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CORAM: SMT. V.K. TAHILRAMANI, J.
DATED: 13TH JUNE, 2005

P. C.:-

1. Heard both sides.

2. The applicants have prayed for quashing of

process issued in Criminal Case Nos.72/SS/of 2004 and 268/SS/of 2004 which are pending in the Court of learned Metropolitan Magistrate, 28th Court, at Esplanade, Mumbai and Case Nos. 280/C/of 2003 and 281/C/of 2003 which are pending in the Court of learned Metropolitan Magistrate, 31st Court, at Vikhroli, Mumbai. In the said cases, process has been issued against the applicants under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in my order dated 8th June, 2005 passed in Criminal Application No.645 of 2005 and order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005, the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. The learned advocate for the applicants states that necessary revision will be preferred within a period of four weeks from today. In case the revision is preferred within four weeks from today, the applicant in application No.3546 and 3547 of 2005 being almost

60 years of age and residing at Gujrat, is granted exemption from personal appearance before the learned Magistrate unless the learned Magistrate is of the opinion that his presence is absolutely necessary. So also the learned Magistrate shall not insist on the personal presence of the applicant in the other two applications unless the learned Magistrate is of the opinion that the personal presence of the applicants is absolutely necessary.

5. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing the necessary parties.

6. Criminal applications are disposed of.

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